UNITED STATES PATENT AND TRADEMARK OFFICE

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10/803,236	03/18/2004	Kent F. Hayes JR.	RSW920030235US1	5626

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 March 2004*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date *03/18/2004, and 06/14/2004* .

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

This office action is responsive to communication filed on 03/18/2004.

Information Disclosure Statement

1.   The references listed on the Information Disclosure Statement submitted on

03/18/2004, and 06/14/2004 have been considered by the examiner (see attached

PTO-1449A).

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   **Claims 1, 5, 6, 10, 11, 15-20, and 24 are rejected** under 35 U.S.C. 102(e) as

being anticipated Rao, U.S. Pub. No. US 20050182697 A1.

Regarding **claim 1**, Rao discloses a computer-implemented method (*fig. 1*),

comprising:

sending an Open Mobile Alliance (OMA) device management (DM) alert from a

client device to an OMA DM server to initiate a management action on the OMA DM

server (*lines 1-9 of par. 0017; in fig. 1, item 107 is the OMA DM client, item 109 is the*

OMA DM server; and item 117 is the network ensuring two way communication

between client and server, processing the OMA DM alert from client to server and

replying to the request; see also par. 0020, par. 0022 and 0024; upload of management

content from client 107 to server 109); and

sending a reply from the OMA DM server to the client device in response to the

OMA DM alert (*lines 9-14 of par. 0017; see also par. 0020, par. 0022 and 0024,*

download of management content from server 109 to client 107).

5. The method of claim 1, wherein:

the OMA DM alert sent by the client device to the OMA DM server comprises a

command/request for software on the OMA DM server, and wherein the reply sent from

the OMA DM server to the client device comprises the software (*lines 1-8 of par. 0017;*

note that the billing code return to the client is the software in question).

6. A computerized system (*fig. 1*), comprising:

a command/request system for sending an Open Mobile Alliance (OMA) device

management (DM) alert from a client device to an OMA DM server to initiate a

management action on the OMA DM server (*lines 1-9 of par. 0017; in fig. 1, item 107 is*

the OMA DM client, item 109 is the OMA DM server; and item 117 is the network

ensuring two way communication between client and server, processing the OMA DM

alert from client to server and replying to the request; see also par. 0020, par. 0022 and

0024; upload of management content from client 107 to server 109); and

a request processing system for sending a reply from the OMA DM server to the

client device in response to the OMA DM alert (*lines 9-14 of par. 0017; see also par.*

0020, par. 0022 and 0024, download of management content from server 109 to client

107).

10. The system of claim 6, wherein:

the OMA DM alert sent by the client device to the OMA DM server comprises a

command/request for software on the OMA DM server, and wherein the reply sent from

the OMA DM server to the client device comprises the software (*lines 1-8 of par. 0017;*

note that the billing code return to the client is the software in question).

11. A program product stored on a recordable medium (*fig. 1*), comprising:

program code for sending an Open Mobile Alliance (OMA) device management

(DM) alert from a client device to an OMA DM server to initiate a management action on

the OMA DM server (*lines 1-9 of par. 0017; in fig. 1, item 107 is the OMA DM client,*

item 109 is the OMA DM server; and item 117 is the network ensuring two way

communication between client and server, processing the OMA DM alert from client to

server and replying to the request; see also par. 0020, par. 0022 and 0024; upload of

management content from client 107 to server 109); and

program code for sending a reply from the OMA DM server to the client device in

response to the OMA DM alert (*lines 9-14 of par. 0017; see also par. 0020, par. 0022*

and 0024, download of management content from server 109 to client 107).

15. The program product of claim 11, wherein:

the OMA DM alert sent by the client device to the OMA DM server comprises a

command/request for software on the OMA DM server, and wherein the reply sent from

the OMA DM server to the client device comprises the software (*lines 1-8 of par. 0017;*

note that the billing code return to the client is the software in question).

16. A computer-implemented method (*fig. 1*), comprising:

sending a notification from a client device to an Open Mobile Alliance (OMA)

device management (DM) server to initiate a management action on the OMA DM

server (*lines 1-9 of par. 0017; in fig. 1, item 107 is the OMA DM client, item 109 is the*

OMA DM server; and item 117 is the network ensuring two way communication

between client and server, processing the OMA DM alert from client to server and

replying to the request; see also par. 0020, par. 0022 and 0024; upload of management

content from client 107 to server 109); and

sending a reply from the OMA DM server to the client device in response to the

notification (*lines 9-14 of par. 0017; see also par. 0020, par. 0022 and 0024, download*

of management content from server 109 to client 107).

17. The method of claim 16, wherein the notification comprises an OMA DM alert (*lines*

1-9 of par. 0017; in fig. 1, item 107 is the OMA DM client, item 109 is the OMA DM

server; and item 117 is the network ensuring two way communication between client

and server, processing the OMA DM alert from client to server and replying to the

request; see also par. 0020, and par. 0022).

18. The method of claim 16, wherein the notification comprises an SNMP Trap (par.

0020).

19. The method of claim 16, wherein the notification comprises a TEC Event (par. 0020;

the TEC events are assumed to be the asynchronous events described in this

paragraph; applicants provide no specific definition for those even in the specifications;

the TEC event are assumed to be comprised just as the OMA DM alert within the OMA

DM client notification and are OMA DM client generated events).

20. The method of claim 16, wherein the notification comprises a SyncML DM alert (par.

0017).

24. The method of claim 16, wherein:

        the notification sent by the client device to the OMA DM server comprises a

command/request for software on the OMA DM server, and wherein the reply sent from

the OMA DM server to the client device comprises the software (lines 1-8 of par. 0017;

note that the billing code return to the client is the software in question).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the·art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

5. **Claims 2-4, 7-9, 12-14, and 21-23** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Rao, in view of Mittal, U.S. Pub. No. 6 US 20050022182 A1.

Regarding **claim 2**, Rao teaches the invention substantially as claimed. Rao

discloses the computer-implemented method of claim 1, but does not show the details

of a method wherein "the OMA DM alert sent by the client device to the OMA DM server

comprises a command/request for a list of software on the OMA DM server available for

distribution to the client device, and wherein the reply sent from the OMA DM server to

the client device comprises the list of available software".

In an analogous art, Mittal shows a technique to facilitate downloading of an

application from at least one server computer to a client device, whereby the client

device generates to the server computer an initiation request for information describing

available applications using a content/application download model (CADM), such as a

Java Application Management System (Java-AMS), Open Mobile Alliance-Content

Download (OMA-CoD), or the like (see par. 0007, and 0029,). Mittal further discloses

"*In event 406, the server computer 104 receives the initiation message from the*

handheld device 108 and, in event 408, the server computer 104 retrieves descriptive

information, such as text and/or a graphic, about each application that is available for

downloading to the handheld device 108. In accordance with principles of the present

invention, the server computer 104 also retrieves, for each respective application

identified as being available for downloading, a link (e.g., a Uniform Resource Locator

(URL), a Uniform Resource Identifier (URI), or the like) to an application descriptor (i.e.,

a set of attributes describing an application) for such respective application. The

retrieved information about each application and its respective link is then transmitted to

the client handheld device 108" (see Mittal, par. 0026, also see fig. 4, items 408-410). It

is important to note that the text and/or graphic about each available application for

download on the server represents "the list of available software available for

distribution" as stated in the claim language. In an attempt to create a system that is

flexible, and cost effective, allowing wireless client devices such as PDA and cellular

telephones to download available application without direct intervention of a service

provider and/or technician, this intriguing combination of using an OMA DM client/server

system with the capabilities of a client to determine that an application is suitable and

available for download from a server prior to download proceedings offers the benefits

of improving and promoting software distribution using wireless technologies.

Accordingly, it would have been obvious to one of ordinary skill in the networking

art at the time the invention was made to have incorporated Mittal's teachings of a

system of a server transmitting a list of software available for download with the

teachings of Rao, for the purpose of "...enabling service providers to more readily

maintain the same end-user experience notwithstanding different download

technologies, thereby streamlining the download of applications while offering a process

that is transparent to the end user, and that requires no special knowledge on the part

of the end user to utilize..." as stated by Mittal in par. 0010. By this rationale **claim 2** is

rejected.

Regarding claims 3, 4, 7-9, 12-14, and 21-23, the combination Rao-Mittal teaches:

3. The method of claim 2, further comprising:

sending a second OMA DM alert from the client device to the OMA DM server,

wherein the second OMA DM alert comprises a command/request for selected software

on the list of available software (*see Mittal; lines 12-18 of par. 0007; also, see fig. 4,

items 418-428*). The same motivation and reason to combine that were used for the

rejection of claim 2 is also valid for this claim. By this rationale, **claim 3 is rejected**.

4. The method of claim 3, wherein:

in response to the second OMA DM alert, sending the selected software from the

OMA DM server to the client device (*see Mittal; par. 0030; see also fig. 4, items 430-

434*). The same motivation and reason to combine that were used for the rejection of

claim 2 is also valid for this claim. By this rationale, **claim 4 is rejected**.

7. The system of claim 6, wherein:

the OMA DM alert sent by the client device to the OMA DM server comprises a

command/request for a list of software on the OMA DM server available for distribution

to the client device, and wherein the reply sent from the OMA DM server to the client

device comprises the list of available software (*see Mittal, par. 0026, also see fig. 4, items 408-410*). The same motivation and reason to combine that were used for the rejection of claim 2 is also valid for this claim. By this rationale, **claim 7 is rejected**.

8. The system of claim 7, wherein:

the command/request system sends a second OMA DM alert from the client device to the OMA DM server, and wherein the second OMA DM alert comprises a command/request for selected software on the list of available software (*see Mittal; lines 12-18 of par. 0007; also, see fig. 4, items 418-428*). The same motivation and reason to combine that were used for the rejection of claim 2 is also valid for this claim. By this rationale, **claim 8 is rejected**.

9. The system of claim 8, wherein:

the OMA DM server sends the selected software from the OMA DM server to the client device in response to the second OMA DM alert (*see Mittal; par. 0030; see also fig. 4, items 430-434*). The same motivation and reason to combine that were used for the rejection of claim 2 is also valid for this claim. By this rationale, **claim 9 is rejected**.

12. The program product of claim 11, wherein:

the OMA DM alert sent by the client device to the OMA DM server comprises a command/request for a list of software on the OMA DM server available for distribution

to the client device, and wherein the reply sent from the OMA DM server to the client

device comprises the list of available software (*see Mittal, par. 0026, also see fig. 4,*

items 408-410). The same motivation and reason to combine that were used for the

rejection of claim 2 is also valid for this claim. By this rationale, **claim 12 is rejected**.

13. The program product of claim 12, further comprising:

program code for sending a second OMA DM alert from the client device to the

OMA DM server, wherein the second OMA DM alert comprises a command/request for

selected software on the list of available software (*see Mittal; lines 12-18 of par. 0007;*

also, see fig. 4, items 418-428). The same motivation and reason to combine that were

used for the rejection of claim 2 is also valid for this claim. By this rationale, **claim 13 is**

rejected.

14. The program product of claim 13, further comprising:

program code for sending the selected software from the OMA DM server to the

· client device, in response to the second OMA DM alert (*see Mittal; par. 0030; see also*

fig. 4, items 430-434). The same motivation and reason to combine that were used for

the rejection of claim 2 is also valid for this claim. By this rationale, **claim 14 is**

rejected.

21. The method of claim 16, wherein:

the notification sent by the client device to the OMA DM server comprises a

command/request for a list of software on the OMA DM server available for distribution

to the client device, and wherein the reply sent from the OMA DM server to the client

device comprises the list of available software (*see Mittal, par. 0026, also see fig. 4,*

items 408-410). The same motivation and reason to combine that were used for the

rejection of claim 2 is also valid for this claim. By this rationale, **claim 21 is rejected**.

22. The method of claim 21, further comprising:

sending a second notification from the client device to the OMA DM server,

wherein the second notification comprises a command/request for selected software on

the list of available software (*see Mittal; lines 12-18 of par. 0007; also, see fig. 4, items*

418-428). The same motivation and reason to combine that were used for the rejection

of claim 2 is also valid for this claim. By this rationale, **claim 22 is rejected**.

23. The method of claim 22, wherein:

in response to the second notification, sending the selected software from the

OMA DM server to the client device (*see Mittal; par. 0030; see also fig. 4, items 430-*

434). The same motivation and reason to combine that were used for the rejection of

claim 2 is also valid for this claim. By this rationale, **claim 23 is rejected**

Conclusion

6.   **THIS ACTION IS MADE NON-FINAL.**   Any inquiry concerning this

communication or earlier communications from examiner should be directed to Jude

Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be

reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or

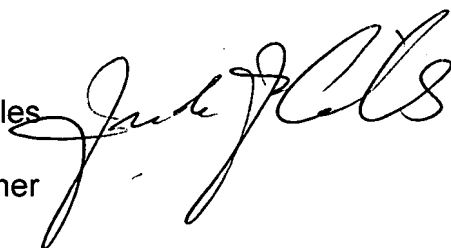proceeding should be directed to the receptionist whose telephone number is (571) 272-

0800.

Jude Jean-Gilles

Patent Examiner

Art Unit 2143

JJG

October 07, 2007